



*Billing Code 3410-KR-P

DEPARTMENT OF AGRICULTURE

Information Collection Request; Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants and Awardees

AGENCY: Office of the Chief Information Officer, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506), the Office of the Chief Information Officer (OCIO) is requesting comments from all interested individuals and organizations on a new information collection request associated with Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants and Awardees. The Department of Agriculture agencies and staff offices (except Forest Service) must comply with FY 2012 appropriations restrictions in sections 738 and 739, of the Agriculture, Rural Development Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (2012 Ag Appropriations Act) (P.L. 112-55). Forest Service must comply with the restrictions in sections 433 and 434 of the Consolidated Appropriations Act, 2012 (P.L. 112-74).

DATES: We will consider comments that we receive by [INSERT 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: We invite you to submit comments on this notice. In your comments, include date, OMB control number, volume, and page number of this issue of the Federal Register. You may submit comments by any of the following methods:

- Federal eRulemaking Portal: Go to <http://regulations.gov>. Follow the online instructions for submitting comments.

- Mail: Ruth Brown or Charlene Parker, Office of the Chief Information Officer, 1400 Independence Ave, SW, Room 405-W, Whitten Building Mail Stop , Washington, DC 20250.

- Email: Ruth.Brown@ocio.usda.gov or Charlene Parker@ocio.usda.gov
- Fax: (202) 690-2688.

Comments also should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Ruth Brown, (202) 720-8958 or Charlene Parker, (202) 720-8681. Copies of the information collection may be obtained from Ruth Brown or Charlene Parker at the above address. Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, etc) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Title: Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants and Awardees in Non-Procurement Programs.

OMB Control Number: 0505-0025.

Type of Request: Revision and Extension of an approved information collection.

Abstract: The Department of Agriculture (USDA) agencies and staff offices (except Forest Service) must comply with the restrictions set forth in sections 738 and 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act (P.L. 112-55, as amended and/or subsequently enacted), which prevents agencies from doing business with corporations that (1) have been convicted, or had an officer or agent of such corporation acting on behalf of the corporation convicted, of a felony criminal violation under

any Federal or State law within the preceding 24 months, and/or (2) have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; unless the agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment are not necessary to protect the interests of the Government.

The Forest Service must comply with similar restrictions in sections 433 and 434 of the Consolidated Appropriations Act, 2012 (P.L. 112-74, as amended and/or subsequently enacted). The Forest Service restrictions on doing business are almost identical to the restrictions for other USDA offices and agencies; the one difference is that the Forest Service restrictions are concerned only with felony convictions under Federal law, rather than both Federal and State law.

To comply with the appropriations restrictions, the proposed information collection will require corporate applicants and awardees for USDA and Forest Service programs to represent accurately whether they do or do not have any qualifying convictions or tax delinquencies which would prevent USDA or the Forest Service from entering into a proposed business transaction with the corporate applicant. For non-procurement programs and transactions, these representations will be submitted on the proposed information collection forms AD-3030, AD 3031, AD-3030-FS and AD-3031-FS. For procurement transactions, compliance with the appropriations restrictions has been effected through the issuance of Agricultural Acquisition Regulation Advisory Number 104, issued March 29, 2012 and available here:

<http://www.dm.usda.gov/procurement/policy/advisories.htm>. Accordingly, this notice does not address and the proposed information collection is not intended for use with USDA or Forest

Service procurement transactions. This notice and the proposed information collection, deal only with USDA and Forest Service non-procurement transactions. The categories of non-procurement transactions covered by this notice and the proposed information collection are: non-procurement contracts, grants, loans, loan guarantees, cooperative agreements, and some memoranda of agreement. For more specific information about whether a particular non-procurement program or transaction is included in this list please contact the USDA agency or staff office or Forest Service office responsible for the program or transaction in question.

In July of 2012, OCIO received a temporary emergency clearance of forms AD-3030, AD-3031, AD-3030-FS and AD-3031-FS to begin use of the forms to effectuate compliance with the appropriations restrictions. The temporary emergency clearance expires December 31, 2012. While this expiration date is after the end of the 2012 fiscal year, the representations will continue to be required as Congress has already extended the fiscal year 2012 appropriations. Also, it is possible that the same appropriations restrictions will be enacted in fiscal year 2013. To ensure that USDA agencies and staff offices and the Forest Service are in a position to continue compliance with the appropriations restrictions for as long as they remain in effect, OCIO is issuing this notice to effectuate a formal three year clearance of the information collection request. Should the appropriations restrictions become ineffective or not be continued during the three year clearance period, this information request will be cancelled at such time as it is no longer required.

The AD-3030 and AD-3030-FS forms will effectuate compliance with the appropriations restrictions by requiring all corporate applicants to represent at the time of application for a non-procurement program whether they have any felony convictions or tax delinquencies that would prevent USDA or the Forest Service from doing business with them. Corporations include, but

are not limited to, any entity that has filed articles of incorporation in one of the 50 States, the District of Columbia, or the various territories of the United States. Corporations include both for profit and non-profit entities. The AD-3031 and AD-3031-FS require an affirmative representation that corporate awardees for non-procurement transactions do not have any felony convictions or tax delinquencies. The AD 3030/3030-FS are required at the time of application and the AD 3031/3031-FS are required at the time of award. If the application and award process are a single step, the agency or staff office may require both forms to be filed at the same time.

Collection of this information is necessary to ensure USDA agencies and staff offices and Forest Service comply with the appropriations restrictions prohibiting the Government from doing business with corporations with felony convictions and/or tax delinquencies.

Estimate of burden: Public reporting burden for this information collection is estimated to average 15 minutes per response.

Frequency of Collection: Other: Corporations – AD-3030/3030-FS – each time they apply to participate in a multitude of USDA non-procurement programs; Awardees –AD-3031/3031-FS – each time they receive an award in USDA non-procurement programs.

Respondents: Corporate applicants and awardees for USDA non-procurement programs, including grants, cooperative agreements, loans, loan guarantees, some memoranda of understanding, and non-procurement contracts.

Estimated number of Annual Respondents: 741,544

Estimated number of Responses per Respondent: 2.75

Estimated Total Annual Responses: 2,039,246

Estimated Total Annual Burden Hours on Respondents: 529,463

We are requesting comments on all aspects of this information collection to help us to:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agencies and Staff offices, including whether the information will have practical utility;
- (2) Evaluate the accuracy of our estimate of the burden, of the collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who are to respond, through the use of appropriate automated, electronic, mechanical, technological and other forms of information technology collection methods.

All responses to this notice, including names and addresses when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Cheryl L. Cook
Chief Information Officer, Office of the Chief Information Office

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